

4. Jurisdiction is proper pursuant to 31 U.S.C. § 3730(e) as Relator's allegations in this First the Southern District of Indiana.
3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) and 31 U.S.C. § 3732(a) as the Defendant during all relevant times maintained its corporate headquarters in, and has directed and orchestrated the conduct that is the subject of this action from, 3730(b).
2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345 and 31 U.S.C. §

VENUE AND JURISDICTION

1. This is a civil action brought against ITT Educational Services, Inc. ("ITT"), and on behalf of the United States of America ("U.S."), pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. §§ 3729-3732 (as amended by the False Claims Act Amendments of 1986), to recover damages and civil penalties from ITT.

INTRODUCTION

COMES NOW *qui tam* Relator Debra Leveski, pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, and alleges the following as her First Amended Complaint herein, to wit:

FIRST AMENDED COMPLAINT - FILED UNDER SEAL

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION
UNITED STATES OF AMERICA ex rel. DEBRA LEVESKI
PLAINTIFFS
V.
ITT EDUCATIONAL SERVICES, INC.
DEFENDANT
CIVIL ACTION NO.: 1:07cv0867DFH-JMS

¹This figure was obtained by multiplying the percentage of ITT Pell grant revenues with ITT's total revenues as stated in its 10K for each year from January 2002, through December 2006.

7. ITT is a publically traded corporation, organized under Delaware law. At all periods relevant to this case, ITT maintained its corporate headquarters and principal place of Education ("DOED").¹
6. Relator was employed by ITT as a financial aid administrator from April 15, 2002, through and until November 3, 2006, engaged full-time in packaging students for financial aid (including Pell grants, Federal Supplemental Educational Opportunity ("FSEO") grants, PLUS loans and Stafford loans) to meet the tuition and fees associated with ITT attendance for present and future students. From January 1, 2002, through December 31, 2006, ITT obtained \$354,180,000 in Pell grants from the Department of
5. Relator Debra Leveski ("Relator") is an adult resident citizen of the U.S. and Lake Orion, Michigan. She was employed by ITT as an inside representative or student recruiter from January 8, 1996, through and until April 15, 2002, engaged in full-time student recruiting. In that capacity, she worked in the ITT admissions department. In the course of her work, Relator became familiar with the marketing activities ITT conducted throughout the U.S. to recruit students for enrollment at "colleges" owned and controlled by ITT.

PARTIES

Amended Complaint are based on her direct and independent knowledge and not from any public disclosure. In addition has voluntarily provided that information forming the basis of Relator's direct and independent knowledge to the U.S. before filing her Complaint and First Amended Complaint.

9. ITT, and/or its units or subsidiaries, directly received Pell and FSEOG grants from the U.S. made pursuant to the HEA. These funds provided ITT with much of its revenues to pay for its students' tuition and fees. A substantial majority of the students recruited to and enrolled in ITT institutions receive Pell or FSEOG grants. Proceeds from all such HEA grants are disbursed directly to ITT by the DOE and ITT is in charge of administering the grant proceeds it receives by crediting the appropriate amount of grant monies to the account of each eligible student. To receive a Pell or FSEOG grant, a student must have financial need. The expected family contribution ("EFC") formula is the standard formula used in determining financial need for Federal Student Aid programs. The

Conditions for ITT's Entitlement to Proceeds of Pell and FSEOG Grant Proceeds

Amended Complaint.

8. The U.S. is named as a Plaintiff herein pursuant to the False Claims Act. As a result of the false records, statements and claims alleged in this First Amended Complaint that were made by, or caused by, ITT, funds of the U.S., through the DOE, were directly disbursed and awarded to ITT and to Federal Family Education Loan Program ("FFELP") lenders. The funds were disbursed and awarded pursuant to the Higher Education Act, 20 U.S.C. §§ 1071 *et seq.* ("HEA"), as a result of the false claims alleged in this First Amended Complaint.
- degrees of study to approximately 47,000 students.
- operated 95 ITT Technical Institutes in 34 states which primarily offer career-focused schemes and related practices challenged in this action. As of September 27, 2007, ITT within this district. This is also the district from which ITT devised the compensation business at 1300 North Meridian Street, Carmel, Indiana. ITT's headquarters are located

10. As a legal prerequisite to any legal entitlement to receive Pell grants, FSEOG grants, or FFELP loan proceeds, each of the ITT-owned and/or controlled "colleges" is required by HEA statute and regulation to make certain explicit certifications on the face of a Program Participation Agreement ("PPA"). A sample PPA is attached hereto as exhibit

contained therein is in compliance with FFELP laws and regulations.

requests are false because they represent ITT is an eligible institution and the information employees of the DOE for funds to replenish its Pell and FSEOG grant accounts. These disbursement record to the DOE for each ITT student. ITT then submits requests to of Pell grants authorized by the ISIR based upon the students EFC, and presents a is created based on the information contained in the FAFSA. ITT then credits the amount Central Processing System in an Institutional Student Information Records ("ISIR") that awards the student on a Pell grant is based upon the information received from the FAFSA to an employee of the DOE for Pell and FSEOG grant funds. The amount ITT not because ITT is not an eligible institution. ITT causes the student to present the is eligible for Pell and FSEOG grant proceeds in that he is an eligible borrower, which he is aid incentive prohibition discussed *infra*. The FAFSA also misrepresents that the student an eligible institution, which it is not for knowingly violating the enrollment and financial false because it contains a Federal school code for ITT that is a representation that ITT is based on the information presented to the DOE in the student's FAFSA. The FAFSA is student's EFC number. The EFC is computed by the Central Processing System and is financial need, and thus eligibility for Pell and FSEOG grant funds is contingent on the formula produces an EFC number. The lower the EFC number, the greater the student's

- “A”. The PPA is entered into between an employee of the DOE and each ITT college. The PPA makes it clear to the signatory institutional representative that, “[t]he execution of this Agreement by the institution and the Secretary is a prerequisite to the institution’s initial and continued participation in any Title IV, HEA program.”
11. Among the explicit certifications and statements signed by, and/or on behalf of, each ITT-controlled institution as a prerequisite for participation in the Title IV program, and as a condition of DOE payment, is the following certification that the ITT institution: will not provide, nor contract with any entity that provides, any commission, bonus or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student or admission activities or in making decisions regarding the awarding of student financial assistance ...
12. The prohibitions set forth above, will be referred to hereafter as the “enrollment and financial aid incentive prohibition”. The enrollment and financial aid incentive prohibition is an essential and core part of the congressional policy behind the Title IV program. The Title IV program was designed by congress and the DOE to protect the fiscal integrity and the educational effectiveness of HEA subsidies. One way Congress sought to insure the integrity of the Title IV program was to remove incentives for post-secondary institutions to recruit and enroll students, and sell financial aid to persons, who are not likely to successfully complete ITT’s academic programs, or to benefit therefrom. In the case of FFELP loans, Congress intended to remove incentives to recruit, enroll and award FFELP loans to persons who are not likely to be able and/or willing to

repay their FFELP loans or benefit from the education.

13. Throughout its participation in the Title IV program, ITT and all of its ITT owned "colleges" knew, should have known and continue to know that compliance with the terms of the enrollment and financial aid incentive prohibition were restated in the certification of ITT's own PPA as well as in the HEA statutes and regulations themselves. In fact, in its December 31, 2005, Securities and Exchange Commission 10-K annual report, ITT states, "[t]he HEA prohibits an institution that participates in Title IV programs from providing any incentive, bonus or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any person or entity engaged in any student recruitment or admissions activity or in making decisions regarding the awarding of Title IV program funds."

14. At all times relevant to this First Amended Complaint, ITT knew, should have known, and continues to know that compliance with the terms of the enrollment and financial aid incentive prohibition was a legal prerequisite to and integral to ITT's entitlement to proceeds from Pell grants, FSEOG grants, PLUS loans and Stafford loans. ITT knew, should have known and continues to know that it was not entitled to the proceeds of any Pell grant or FSEOG grant paid by the DOE on behalf of any individual or prospective ITT student absent its compliance with the enrollment and financial aid incentive prohibition. ITT knew, should have known and continues to know that it was not entitled to the proceeds of any FFELP loan paid by a FFELP lender on behalf of any individual or prospective ITT student absent its compliance with the enrollment and financial aid incentive

prohibition. Compliance with the enrollment and financial aid incentive prohibition is a condition of payment for an institution to receive any proceeds from a Pell grant, FSEO grant or FFELP loan.

ITT Knowingly Violated the Enrollment and Financial Aid Incentive Prohibition

15. Throughout the entire decade preceding the filing of this action, ITT and its management knew, should have known and continues to know that ITT was in continual violation of the enrollment recruitment and financial aid incentive prohibition. ITT knew, should have known, and continues to know it was in violation of the prohibition when it caused to be presented and submitted each FFELP loan application on behalf of each student or prospective student who purported to be eligible to serve as borrowers of such loans. ITT knew, should have known, and continues to know it was in violation of the prohibition when it presented and submitted each Fiscal Operations Report and Application to Participate ("FISAP") for FSEO grant proceeds. A sample FISAP is attached hereto as exhibit "B". ITT knew, should have known, and continues to know it was in violation of the prohibition when it presented and submitted each request for funds for Pell grant proceeds to credit student accounts using the DOEd's Common Origination and Disbursement process, which is simply a hybrid of the former Recipient Financial Management System process. ITT would present origination and disbursement forms to employees of the DOEd for Pell grant funds it was not due. ITT knew, should have known and continues to know it was in violation of the prohibition when it presented or caused to be presented each Federal Stafford Loan School Certification, where ITT falsely certifies the

16. Throughout the entire decade preceding the filing of this action, ITT caused and directed its institutions to pay (and to withhold) additional compensation to its individual student recruiters, rewarding such student recruiters based solely on enrollment and financial aid incentive prohibitions deprived the student and ITT of any entitlement to Stafford or PLUS loan proceeds, and deprived all FFELP lenders who submitted claims for interest subsidies, special allowance payments and default claims on the FFELP loans they hold for loans made to ITT students and prospective students of any right to those subsidies.

student on the Certification is an eligible borrower to receive the Stafford loan proceeds. A copy of this form is attached hereto as exhibit "C". The certification is false because a student is not an eligible borrower unless he attends an eligible institution, which ITT has never been because of its violation of the enrollment and financial aid incentive prohibition. ITT knew, should have known and continues to know it was in violation of the prohibition when it presented or caused to be presented to an employee of the U.S. each Federal PLUS Loan Information and School Certification, where ITT falsely certifies the student on the Certification is an eligible borrower to receive the benefit of PLUS loan proceeds. A copy of this form is attached hereto as exhibit "D". The certification is false because a student is not an eligible borrower unless he attends an eligible institution, which ITT was not because of its violation of the enrollment and financial aid incentive prohibition. ITT management knew, should have known and continues to know that ITT's systematic and continual corporate policy of engaging in the compensation schemes that violated the enrollment and financial aid incentive prohibitions deprived the student and ITT of any entitlement to Stafford or PLUS loan proceeds, and deprived all FFELP lenders who submitted claims for interest subsidies, special allowance payments and default claims on the FFELP loans they hold for loans made to ITT students and prospective students of any right to those subsidies.

- the number or level of enrollment and starts the student recruiter achieved. The term start means a student recruiter persuades a prospective student to enter a specific ITT program and sit in class for the first time. Enrollment means a signed agreement between the prospective student and ITT school for the student to enter into a program, which itemizes the cost and duration for completion of the specific ITT program the student agrees to enter.
17. Throughout the entire decade preceding the filing of this action, ITT caused and directed its institutions to pay (and to withhold) additional compensation to its individual financial aid administrators based solely upon the number and volume of financial aid awards re-packaged or packaged for the current or prospective student, respectively.
18. ITT, in flagrant violation of the HEA prohibition, compensates inside representatives, including Relator when she was an inside representative, based solely upon their success in enrollment activities. In an inside representative's performance, planning and evaluation ("PPE") review, the minimum amount of student enrollments and student starts the inside representative must meet is quantified. The raise an inside representative obtains is directly related to and a function of that inside representative's success in securing enrollments and starts. ITT, in flagrant violation of the HEA prohibition, compensates its financial aid administrators, including Relator when she was a financial aid administrator, based solely upon their success in securing federally subsidized financial aid for ITT students and prospective ITT students. In an ITT financial aid administrator's performance, planning and evaluation ("PPE") review, the
19. ITT, in flagrant violation of the HEA prohibition, compensates its financial aid

- minimum amount of the following the financial aid administrator must meet is quantified: (1) financial aid re-packs finalized for current students to pay for subsequent years of enrollment on the earliest date permitted by the HEA, (2) financial aid packages for new students to pay for initial years of enrollment on the earliest date permitted by the HEA, and (3) Pell grants received by the college on behalf of students by the earliest date permitted by the HEA. The raise a financial aid administrator obtains from ITT is directly related to and a function of that financial aid administrator's success in securing financial aid for ITT students.
20. ITT publishes the top ranking inside representatives and financial aid administrators, based upon their number of student enrollments and starts, and quantity of students for which financial aid is secured, respectively.
21. ITT urges its inside representatives to enroll students without reviewing their transcripts to determine if the student possesses sufficient academic qualifications to benefit from an education at ITT.
22. At the time of signing its PPA with the DOE, and during the period before the PPA's expiration, ITT knew that its certifications of compliance with the enrollment and financial aid incentive prohibition were false. ITT knew it had no intent or purpose of changing its recruitment or financial aid administrator compensation packages to comply with the prohibition. Accordingly, ITT signed and entered into each PPA fraudulently, intending fraudulently to induce the DOE to treat ITT as an eligible institution for the purpose of getting payments from the DOE in response to claims for grants, and to get subsidy payments

23. During the decade immediately preceding the filing of this First Amended Complaint, ITT has continually caused its colleges and other units to make, and has caused individual prospective students recruited by ITT, through the submission of a Free Federal Application for Financial Aid ("FAFSA"), a sample FAFSA is attached hereto as exhibit "E", to make applications directly to the DOE seeking and claiming entitlement to Pell grants, FSEO grants and FFELP loans to fund the education of each eligible individual prospective and continuing ITT student. Grant proceeds from all such applications for all such grants were disbursed to ITT by the DOE, and ITT credited each student's account the amount indicated on the student's ISIR. As a part of each application or claim for each such grant, ITT has caused a knowingly false representation to be made to the DOE by the student that ITT was at the time an eligible institution then in compliance with a valid PPA. As ITT has known throughout its existence, and continues to know, continuing compliance with the terms of its PPA, including the enrollment and financial aid incentive prohibition has been a prerequisite and precondition for any entitlement on the part of ITT to receive any such grant proceeds, and a prerequisite and precondition for any entitlement of ITT's

False Claims Presented By ITT

allowed by the DOE and Guaranty agencies for ITT's FFELP lenders. ITT induced DOE payments to ITT and FFELP lenders when ITT knew that it did not meet (and had no intention or plan to meet) the prerequisites and conditions for serving as an eligible institution. By signing the PPA, ITT intended specifically to deceive the DOE.

FFELP lenders to interest subsidies, special allowance payments or insurance on borrower default. If ITT did not falsely represent it was an eligible institution in the PPA, Federal Stafford Loan School Certification, and Federal PLUS loan Information and School Certification, and cause students to falsely represent ITT was an eligible institution on the FAFSA, no FFELP lenders would be able to make Stafford and PLUS loans to ITT students, or consolidate FFELP loans taken out by ITT students.

24. Throughout the decade immediately preceding the filing of this action, ITT has continually caused its colleges to make, and has caused individual prospective students recruited to ITT to make, applications to private lenders for FFELP loan proceeds, to be disbursed to ITT or one of its subsidiaries. The FFELP, in turn, includes federally subsidized Stafford loans, PLUS loans, and Federal Consolidation Loans. When any such FFELP loan has been the subject of a default, ITT, in turn, has caused the FFELP lender to represent falsely to a Guaranty agency in a Claim Form, a sample of which is attached hereto as exhibit "F", that ITT was then an eligible institution in compliance with its PPA, and the FFELP lender was eligible to claim and receive an insurance payment from the Guaranty agency on the defaulted loan with DOE funds. Also, ITT caused the FFELP lender to violate its agreement with the Guaranty agency to only submit default claims for eligible FFELP loans. As ITT has known throughout its existence, and continues to know, continuing compliance by it and its subsidiaries with the terms of the PPA, including the enrollment and financial aid incentive prohibition, has been a prerequisite and precondition for any

entitlement on the part of any FFELP lender to receive any such insurance proceeds for a borrower default. In addition, ITT has caused each such FFELP lender to present false claims directly to the DOE for interest subsidies and special allowance payments on each FFELP loan it holds made to an ITT student, graduate or drop-out, on a LARS/799 form. A sample LARS/799 is attached hereto as exhibit "G". As ITT has known throughout its existence, and continues to know, compliance by it and its units with the terms of its PPA, including the enrollment and financial aid incentive prohibition, has been a prerequisite and precondition for any entitlement on the part of any FFELP lender to receive any such interest subsidy or special allowance payment on any such loan it holds that was made to benefit an ITT student. ITT also caused its FFELP lender holding FFELP loans made to benefit an ITT student to falsely represent to the DOE in a Lender/Service Organization Participation Agreement that the data submitted on the LARS/799 will be accurate and in compliance with FFELP laws and regulations. A sample Lender/Service Organization Participation Agreement is attached hereto as exhibit "H".

25. Pursuant to 20 U.S.C. § 1077, a FFELP loan is insurable by the DOE, and thus eligible for interest subsidies, special allowance payments and default guaranty payments, by the DOE only if, *inter alia*, the student's institution executed and complies with a PPA. 20 U.S.C. §§ 1091 and 1094(a). ITT falsely certified as to each of its students that applied for FFELP loan proceeds that ITT was an eligible institution on the Federal Stafford Loan School Certification and/or Federal PLUS Loan Information and School Certification, by certifying that the student

was eligible to benefit from the Stafford and PLUS loan proceeds. ITT's fraudulent scheme caused private lenders who made FFELP loans to ITT students to present false default claims to a Guaranty agency on loans the FFELP lender holds that were made to ITT students, graduates or drop-outs. These default claims by a FFELP lender holding a loan made to an ITT student were paid with U.S. monies, only because ITT lied about its compliance with the student recruitment and financial aid incentive prohibition in its PPA.

26. Pursuant to 20 U.S.C. § 1078(a)(1)(A), a FFELP lender receives interest subsidies from the DOE on FFELP loans it holds to reduce the burden on students to pay interest while in school, grace or deferment, and to maximize the FFELP lenders' profits. In order to be eligible for interest subsidies, the FFELP loan must be insured by the DOE. As indicated in the above paragraph, ITT's execution and compliance with the PPA is a prerequisite to a loan being insurable by the DOE. Thus, ITT's execution of, and compliance with, the PPA is a prerequisite to the FFELP lenders' initial and continuing right to receive interest subsidies on the loans it holds taken out by ITT students, graduates or drop-outs. ITT's fraudulent scheme has caused FFELP lenders to make false claims for interest subsidies on FFELP loans the lender made to ITT students, graduates or drop-outs. The FFELP lender is only eligible for interest subsidies on loans made to students of an eligible institution. ITT causes FFELP lenders to falsely claim interest subsidies from the DOE on a LARS/799 submitted electronically by the lender to the DOE through the Lenders Reporting System. The FFELP lender uses the false ITT PPA, Federal Stafford Loan School

Certification and Federal PLUS Loan Information and School Certification, Lender/Service Organization Participation Agreement, and LARS/799 to get false claims for interest subsidies paid by the U.S. The FFELP lenders also use the false statement of ITT students on the FAFSA that ITT is an eligible institution in order to get its false claims for interest subsidies paid by the DOE. The only reason the false claims were paid by the U.S. is because ITT lied to the DOE in its PPA when certifying compliance with the enrollment and financial aid incentive prohibition.

27. Pursuant to 20 U.S.C. § 1087-1(b)(3), a private lender holding an eligible loan shall be deemed to have a contractual right against the U.S., during the life of such loan, to receive a federal subsidy known as the special allowance payment. However, the definition of an eligible loan excludes those loans that are not insured by the DOE. 20 U.S.C. § 1078-1(b)(5). ITT's (1) execution of a PPA, (2) proof of compliance with the PPA by the borrower's institution, (3) execution of a Federal Stafford Loan School Certification and (4) execution of a Federal PLUS Loan School Certification, the FFELP lender's execution of a Lender/Service Organization Participation Agreement and LARS/799; and the student's execution of a FAFSA are prerequisites to the FFELP lender's legal entitlement to special allowance payments from the DOE on FFELP loans held by that lender. ITT's fraudulent scheme has caused FFELP lenders to present false claims to the DOE using a LARS/799 form for special allowance payments on FFELP loans the lenders made to ITT students, graduates or drop-outs. The FFELP lenders use the false statement of ITT on the PPA that ITT complies with

the enrollment and financial aid incentive prohibition in order to get their false claims for special allowance payments paid by the DOE. The FFELP lenders use the false statement of ITT on the Federal Stafford Loan School Certification, and Federal PLUS Loan Information and School Certification in order to get its false claims for special allowance payments paid by the DOE. Thus, ITT causes the FFELP lender to make false records and statements on their Lender/Service Organization Participation Agreement and LARS/799 to get false claims for special allowance payments allowed and paid by the U.S. ITT also caused the student to make false records and statements on the FAFSA to get false claims for special allowance payments allowed and paid by the U.S. The only reason the DOE paid those claims is because ITT lied to the DOE in its PPA when certifying compliance with the enrollment and financial aid incentive prohibition. ITT knew at the time of each such FFELP loan or grant application, and continues to know, for each such FSEOG grant, Pell grant or FFELP loan that its compliance with, and obedience to, the enrollment and financial aid incentive prohibition was a precondition of, was material to, and was integral to any entitlement of ITT (or any FFELP lender holding loans made to ITT students) to be paid with DOE funds. ITT also knew, and continues to know, that it was not in compliance with the enrollment and financial aid incentive prohibition, had not been in compliance with the prohibition at the time of the most recent signing of its PPA, had not been in compliance for at least the past decade, and had no intention or plan to come into compliance. ITT knew, and continues to know, that its students were not eligible students to benefit from Stafford loan proceeds when it submitted its Federal Stafford Loan School Certification to the U.S. and

the FFELP lender. ITT knew, and continues to know, that its students were not eligible students to benefit from PLUS loan proceeds when it submitted its Federal PLUS Loan Information and School Certification to the U.S. and FFELP lender for each ITT student. ITT therefore knew at the time of each such loan or grant application (or default, interest subsidy or special allowance claim ITT caused to be made by a FFELP lender) that each such claim was factually and legally false.

29. ITT knew at the time of each such application for each such FSEOG grant, Pell grant or FFELP loan, and continues to know, that ITT and the FFELP lender were using ITT's purported status as an eligible institution as a part of each such claim or application for grants and federal loan subsidies. ITT knew that it was therefore using (or causing to be used) the false representations in its PPA, as a legally necessary, material, and integral part of, condition of, and cause of, each such application or claim for a FSEOG of Pell grant, or FFELP lender claim for loan default, interest subsidies and special allowance payments. ITT knew that it was therefore using (or causing to be used) the false representations in its Federal Stafford Loan School Certification and Federal PLUS Loan Information and School Certification, and the false representations made by the student in his FAFSA, as a legally necessary, material, and integral part of, condition of, and cause of, each such application or claim for Stafford loan proceeds, loan default, interest subsidies and special allowance payments. Each such use of ITT's representations and certifications in its PPA was known, and continues to be known, by ITT to be integral to the causal chain leading to the making of each disbursement directly to ITT, and the subsidy paid to FFELP lenders on loans

The presented claims were false because the ITT student certified on the FAFSA

since no later than January 8, 1996, all in violation of 31 U.S.C. § 3729(a)(1).

DOEd for Pell and FSEO grant monies disbursed directly to ITT by the U.S.

for Pell grant and FSEO grant proceeds as to each and every such claim to the

out of U.S. funds, and caused losses to the U.S. in the amounts of those payments

agents of the U.S., false claims and fraudulent claims for approval and payment

to be presented by ITT students, to the DOEd and to other officers, employees or

In performing all of the acts set out herein, ITT knowingly presented and caused

of the PPA and FIASP are conditions of payment for Pell and FSEO grants.

compliance with HEA laws and regulations. Compliance with the requirements

respectively, that ITT was an eligible institution and that all grants were made in

disbursement forms it submitted to the DOEd for FSEO and Pell grant proceeds,

claims were false because ITT represented on the FIASP and origination and

than January 8, 1996, all in violation of 31 U.S.C. § 3729(a)(1). The presented

Pell and FSEO grant monies disbursed directly to ITT by the U.S. since no later

grant and FSEO grant proceeds as to each and every such claim to the DOEd for

funds, and caused losses to the U.S. in the amounts of those payments for Pell

U.S., false claims and fraudulent claims for approval and payment out of U.S.

to be presented, to the DOEd and to other officers, employees or agents of the

In performing all of the acts set out herein, ITT knowingly presented and caused

this First Amended Complaint.

Relator hereby re-alleges and incorporates by reference all allegations set forth in

Count I - Violations of False Claims Act - 31 U.S.C. § 3729(a)(1) - ITT Knowingly Presented, and Caused Students to Present, False Claims to the DOEd for Pell Grant and FSEO Grant Funds

made to ITT students, as a result of each such false claim.

the borrower in each FAFSA, all submitted to an employee of the DOE for each and Federal PLUS Loan Information and School Certification, and as certified by borrower as certified by ITT in each Federal Stafford Loan School Certification because ITT is not compliant with the PPA and the student is not an eligible allowance payments or interest subsidies on the loans made to ITT students allowance payments. Since the FFELP lender is not entitled to any special the U.S. in the amounts of those payments, for interest subsidies and special fraudulent claims for approval and payment of U.S. money, and caused losses to holding loans made to ITT students to present to employees of the U.S., false and In performing all of the acts set out herein, ITT knowingly caused FFELP lenders forth in this First Amended Complaint.

34. Relator hereby re-alleges and incorporates by reference all allegations set

Count II - Violations of False Claims Act - 31 U.S.C. § 3729(a)(1) - ITT Knowingly Caused FFELP Lenders to Present False Claims to the U.S. for Interest Subsidies and Special Allowance Payments on a LARS/799

from the evidence to be presented at the trial hereof.

33. By virtue of and as a result and cause of the false claims presented, and caused to be presented by ITT, the U.S. suffered actual damages and is entitled to recover three times the amount by which it is damaged, plus civil money penalties of not less than \$5,500 and not more than \$11,000 for each of the false claims presented or caused to be presented, and other monetary relief as determined appropriate

the FAFSA to the DOE for the student.

code and directing the student to present the FAFSA to the DOE or presenting directing the student to submit a FAFSA identifying ITT by its Title IV school ITT providing or making available a Title IV school code for the institution, he presented to the U.S. that ITT was an eligible institution, which was caused by

38. In performing all of the acts set out herein, ITT used the false record of its PPA, and the false statements contained in its PPA, to get false and fraudulent claims for Pell and FSEOG grant proceeds paid from the U.S. ITT compliance with and obedience to the enrollment and financial aid incentive prohibition contained in the PPA is a condition of payment for Pell and FSEOG grant claims the U.S. pays ITT. Thus, the underlying claim caused to be paid by the false PPA is itself false because the institution is not eligible for the claimed Pell or FSEOG grant proceeds because of its non-compliance with the enrollment and financial aid incentive prohibition. Moreover, the underlying FSEOG grant claims are false because ITT represents to the DOE on a FISAP that it is an eligible institution for the receipt

37. Relator hereby re-alleges and incorporates by reference all allegations set forth in this First Amended Complaint.

Count III - Violations of False Claims Act - 31 U.S.C. § 3729(a)(2) - ITT Knowingly Made Used and Caused to be Made and Used False Records and Statements to Get False and Fraudulent Claims Paid and Approved by the U.S. for Pell Grants and FSEOG Grants

36. By virtue of and as a result and cause of the false claims caused to be presented by ITT, the U.S. suffered actual damages and is entitled to recover three times the amount by which it is damaged, plus civil money penalties of not less than \$5,500 and not more than \$11,000 for each of the false claims ITT caused to be presented by the FFELP lenders holding its students loans, caused to be presented by ITT students and other monetary relief as determined appropriate from the evidence to be presented at the trial hereof.

ITT student, the LARS/799 contains a false statement as to the amount of money due the FFELP lender in interest subsidies and special allowance payments by the U.S. and that the loans are compliant with all FFELP laws and regulations.

money penalties of not less than \$5,500 and not more than \$11,000 for each of

the false claims paid or caused to be paid by the U.S. as a result of the false statements and records, and other monetary relief as determined appropriate from the evidence to be presented at the trial hereof.

Count IV - Violations of False Claims Act - 31 U.S.C. § 3729(a)(2) - ITT Knowingly Made, Used and Caused to be Made and Used False Records and Statements to Get False and Fraudulent Claims Paid and Approved by the U.S. for Special Allowance Payments and Interest Subsidies on PLUS and Stafford Loans Made to ITT Students by FFELP Lenders

39. Relator hereby re-alleges and incorporates by reference all allegations set forth in this First Amended Complaint.

40 In performing all of the acts set out herein, ITT knowingly made, used and caused to be made and used false and fraudulent PPA certifications, Federal Stafford Loan School Certifications, Federal PLUS Loan Information and School Certification, FAFSAs, Lender/Service Organization Participation Agreements, and LaRS/799 forms and other representations that holders of FFELP loans made to ITT students were eligible to receive interest subsidies, and special allowance payments. Since FFELP lender entitlement to any interest subsidies or special allowance payments is conditioned upon ITT's compliance with the enrollment and financial aid incentive prohibition, and ITT knowingly violated this prohibition, any and all claims by a FFELP lender for interest subsidies and special allowance payments on FFELP loans made to ITT students are false because the FFELP lender requests the U.S. money on the LaRS/799 to which it is not entitled because of ITT's fraud disqualifying the holder of those FFELP loans from any entitlement to interest subsidies and special allowance payments. The claims by lenders for interest subsidies and special allowance payments are false because the FFELP lender represents on the LaRS/799 that ITT is an eligible institution and the loans comply with all FFELP statutes and regulations,

by the Guaranty agency. As discussed above, ITT is not an eligible institution, order for the student's FFELP lender to be eligible for payment of a default claim requirement that a FFELP loan be made to a student of an eligible institution in and disbursed in compliance with federal statutes and regulations, including the because the FFELP lender indicates on the Claim Form that the loans were made appropriate Guaranty agency insuring the loan. The underlying claims are false to get false and fraudulent claims for payment on default claims approved by the lenders who hold loans made to ITT students, graduates and drop-outs, in order Certification, FAFSA and Claim Form to be used by ITT students and the FFELP Stafford Loan School Certification, Federal PLUS Loan Information and School

43. In performing all of the acts set forth herein, ITT caused the PPA, Federal

forth in this First Amended Complaint.

42. Relator hereby re-alleges and incorporates by reference all allegations set

Count V - Violations of False Claims Act - 31. U.S.C. § 3729(a)(2) - ITT Making, Using and Causing to Be Made or Used, False Records and Statements by FFELP Lenders to Get False or Fraudulent Borrower Default Claims for U.S. Funds Paid or Approved by Guaranty Agencies

the trial heretof.

monetary relief as determined appropriate from the evidence to be presented at U.S. as a result of the false statements and records by FFELP lenders, and other more than \$11,000 for each of the false claims paid or caused to be paid by the which it is damaged, plus civil money penalties of not less than \$5,500 and not has suffered actual damages and is entitled to recover three times the amount by ITT's use and causing to be used such false statements and records, the U.S.

41. By virtue of and as a result and cause of the false claims paid by the U.S. caused

which is a false.

and ITT knowingly misrepresents, and causes ITT students and FFELP lenders to misrepresent, to the DOE and the Guaranty agency that ITT is an eligible institution. The Claim Form is also false because the lender claims an amount of money from the Guaranty agency which it is not entitled because the borrower is not an eligible borrower.

44. By virtue of and as a result and cause of the false default claims caused to be paid by the Guaranty agency with U.S. funds because of the false statements ITT made and caused to be made, the U.S. has suffered actual damages and is entitled to recover three times the amount by which it is damaged, plus civil money penalties of not less than \$5,500 and not more than \$11,000 for each of the false claims paid or caused to be paid by the U.S. a result of the false statements and records, and other monetary relief as determined appropriate from the evidence to be presented at the trial hereof.

Count VI - Violations of False Claims Act - 31 U.S.C. 31 § U.S.C. 3729(a)(7) - ITT Used and Casused ITT and FFELP Lenders to Use False Certifications and Other Statements to Avoid Obligations to Re-Pay Funds to the DOE

45. This is a claim on behalf of the United States of America under the False Claims Act, 31 U.S.C. §§ 3729-33, as amended, specifically for violations of Section 3729(a)(7) thereof.

46. In performing all of the acts set out herein, Defendant ITT knowingly used, continues to use, and caused to be used, false and fraudulent PPA certifications, and other representations (including the FAFSA, Lender/Service Organization Participation Agreement, Federal Stafford Loan School Certification, Federal PLUS Loan Information and School Certification, LARS/799, FIASP, origination

and disbursement forms, and the Claim Form) that ITT-controlled colleges were institutions eligible to receive Title IV proceeds from related DOE programs.

the U.S.:

WHEREFORE, the U.S. demands and prays that judgment be entered in favor of

PRAYER FOR RELIEF

be presented at the trial hereof.

agency, and other monetary relief as determined appropriate from the evidence to

the false claim presented or caused to be presented to the U.S. or a Guaranty

money penalties of not less than \$5,500 and not more than \$11,000 for each of

entitled to recover three times the amount by which it is damaged, plus civil

all such payments received by ITT, the U.S. has suffered actual damages and is

ITT of false records or statements to conceal ITT's obligation to return or refund

be presented by ITT with the use of such statements and records, and the use by

By virtue of and as a result and cause of the false claims presented or caused to

claims, all in violation of 31 U.S.C. § 3729(a)(7).

lenders benefitting from ITT's false statement in its PPA, are reverse false

eligible institution, and thus all funds received directly by ITT, and the FFELP

violations of the enrollment and financial aid incentive prohibition, was not an

false statement in its PPA, during periods of time when in fact ITT, because of its

DOEd funds received by ITT, and the FFELP lenders benefitting from ITT's

such payments, and in order to avoid the obligation to return or refund to the

treated by the DOE as an eligible institution and lender for the lawful receipt of

allowance payments, and loan insurance guaranty payments, in order to be

of the United States, for grant proceeds, loan proceeds, interest subsidies, special

the DOE (or to Guaranty Agencies) and to other officers, employees or agents

proceeds of and conditions for causing false and fraudulent claims to be made to

and other false and fraudulent records, to be used as an integral part of the

47.

- A. On Counts I-VI under the False Claims Act against ITT for three times (or "treble") the amount of funds paid directly by the DOE to ITT or its subsidiaries in Pell and FSEOG grants, and to any private lender which received default payments, special allowance payments, or interest payments, as to loans, the original proceeds of which were disbursed directly to an institution owned or controlled by ITT, plus all investigative costs, and all civil penalties as are allowable by law for each false claim, and for costs of this civil action; and
- B. For such other relief as the Court deems just and equitable.
- WHEREFORE, Relator demands and prays that judgment be entered in her favor as follows:

- A. On Counts I-V under the False Claims Act, for a percentage of all civil penalties and damages obtained from ITT pursuant to 31 U.S.C. § 3730; B. Reasonable attorney's fees, and all costs incurred in the prosecution of this action against the Defendant; and
- C. Such other relief as the Court deems just and proper.

Respectfully Submitted

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DEMAND FOR JURY TRIAL

Relator, on behalf of herself and the U.S., respectfully requests a trial by jury on all counts of this First Amended Complaint.

Respectfully Submitted

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